



# Forestry Riparian Easement Program

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Conserving  
Washington's  
forested stream sides

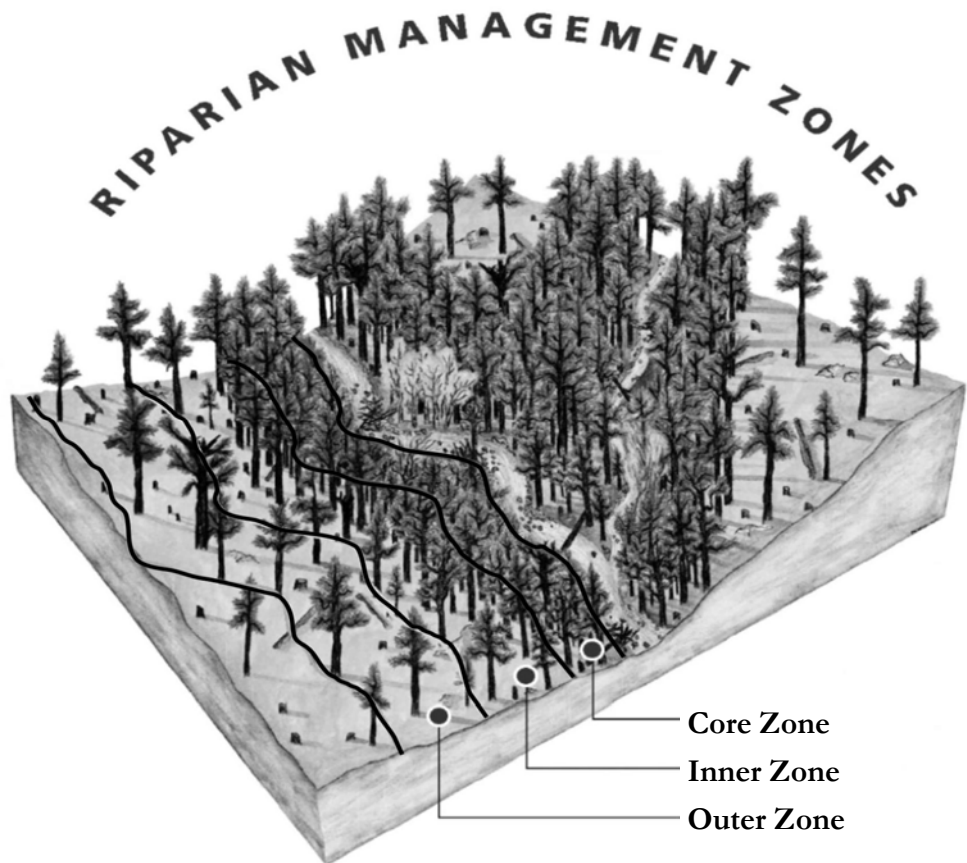


WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**



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The information in this handout is also available on our website at: [www.dnr.wa.gov/sflo](http://www.dnr.wa.gov/sflo)



## Overview

The plant communities that form the transition between land and water comprise a riparian zone that is essential to sustaining wildlife habitat and water quality. This interface between land and water is the most biologically diverse part of a watershed's ecosystem. Riparian processes in the upper watershed directly affect downstream water quality and fish and wildlife habitat. Salmon runs, bird and animal habitat, flood events, irrigation, timber production and recreational activities are all directly affected by activities in riparian zones.

In 1974, the state of Washington began to require forested buffers along streams and rivers to protect water quality and wildlife habitat. The Department of Natural Resources (DNR) was directed to develop Forest Practices Rules that define how forested riparian areas are to be managed. To provide protection over the long term, the riparian forest must be able to regenerate itself.

In 1999, the Washington State Legislature responded to the federal Endangered Species Act listing of several salmonid species by authorizing the Forest Practices Board to adopt rules for salmonid recovery. These rules increased the size of riparian buffers and created further measures to protect water quality and restore salmonid habitat. Recognizing that these rules would have a disproportionate impact on small forest landowners, provisions were included in the legislation to create a **Forestry Riparian Easement Program (FREP)** to be managed by the Small Forest Landowner Office. The easement program acknowledges the importance of small forest landowners and the contributions they make to protect wildlife habitat and water quality.

The FREP compensates eligible small forest landowners in exchange for a 50-year easement on "qualifying timber." This is the timber the landowner is required to leave unharvested as a result of new forest practices rules protecting Washington's forests and fish. Landowners cannot cut or remove the qualifying timber during the easement period. The landowner still owns the property and retains full access, but has "leased" the trees and their associated riparian function to the state.

***\* Important note:***

***Some of the provisions in this document may change with the passage of new legislation. Please contact the nearest DNR office for updated information on the Forestry Riparian Easement Program.***



# Qualifying Landowner Checklist

**To qualify for the Forestry Riparian Easement Program, you must:**

1. Own land as an individual or as part of a partnership, corporation, or other non-governmental legal entity.
2.
  - a. Own one parcel of more than 20 contiguous acres, OR
  - b. Own a parcel of less than 20 acres as part of a total ownership of multiple parcels in Washington state that together total more than 80 forested acres.
3. Have timber next to a river, stream, lake, pond, wetland or unstable slope that you plan to harvest in the near future. Additionally, the timber harvest adjacent to the riparian area must not be intended to convert the land to a use that is incompatible with growing timber (e.g. real estate development).
4. Have not harvested more than an average of 2 million board feet of timber per year from all of your ownerships in Washington State over the past three years.
5. Allow the state access to the property by foot or vehicle.
7. Own your property free and clear of any liens, mortgages or other legal encumbrances, OR obtain a subordination agreement from your title company.
8. Be willing to enter into a 50-year agreement with the State of Washington.
9. Own land that was platted before 1960.

**Many of these eligibility standards are detailed in the Frequently Asked Questions section of this handout.**

**Even if you do not qualify for one of the standards listed here, you may still be eligible for the easement program. Please contact your local DNR Region Office if you have any questions.**



## Frequently Asked Questions

### What is a Forestry Riparian Easement?

Unlike a typical easement involving property or a road, a forestry riparian easement covers only qualifying timber (those trees which a landowner cannot harvest under the Forest Practices Rules) ***No right of public access or use is created by the easement.*** The purpose of the easement is to protect the qualifying timber and its associated riparian function. Riparian function includes: stabilizing the stream bank, trapping sediment, shading the water, and providing leaf litter and large woody debris. These functions are dependent upon forest management practices that maintain existing riparian forests. The volume of timber covered by the easement may not be cut or removed for 50 years.

**No right of public access is created by the easement.**

### How much compensation will a landowner receive for timber within the easement area?

Landowners will receive a minimum of 50 percent of the fair market stumpage value for the qualifying timber. The landowner can choose to base the value of the qualifying timber on the date the Forest Practices Application was received or the date timber harvesting began. Once the harvest is complete, DNR will hire a timber cruiser to determine the volume of the remaining qualifying timber. The Small Forest Landowner Office will then appraise the value of the easement.

**Landowners will be compensated for 50% of the value of the qualifying timber.**

### Are there any costs or fees for enrolling in the easement program?

The landowner must initially cover all costs associated with setting up and recording the easement. These costs may include hiring a consulting forester to measure and mark the easement boundaries and/or develop a Forest Stewardship Plan or any fees charged by a title or mortgage company to obtain real estate documents. However, once the easement has been executed, all of these “compliance” costs will be reimbursed.

**The easement will remain in effect for 50 years.**

### How long will easements remain in effect?

Easements will remain in effect for 50 years from the date the Forest Practices Application associated with the easement was accepted by DNR. After 50 years, the current landowner resumes his or her right to the qualifying timber and the timber will be subject to any regulations affecting riparian areas at that time.

### Can I withdraw from the easement program once an easement has been established?

Typically, no. The Forestry Riparian Easement Program has been developed to provide long-term protection of fish and wildlife habitat and water quality. Landowners may want to seek legal and/or financial advice and family input before entering into the program. However, there may be extenuating circumstances that would allow the easement agreement to be dissolved if both parties are in agreement.

## Forestry Riparian Easement Program



A landowner still owns the land & timber, although he or she has “leased” the qualifying timber to the state for 50 years.

### **If I enter into an easement agreement, do I still own the land & timber?**

Yes. Easement participants still own the land and timber although they have “leased” their right to harvest the qualifying timber to the state for 50 years. The easement is intended to protect the riparian functions associated with the qualifying timber, while still preserving other land uses. Landowners still have access to the easement site for all uses compatible with the terms of the easement. Incompatible land uses may include: cutting any qualifying timber, road building, and waste dumping.

### **Is there a minimum number of acres I must own in order to qualify for the Forestry Riparian Easement Program?**

1. More than 20 contiguous acres. Landowners who own 20 or less contiguous acres do not qualify for the easement program since less restrictive Forest Practices Rules apply to these smaller parcels. If you own less than 20 acres of forestland, there are other incentive programs available from the DNR. Please contact the Small Forest Landowner Office for more information.
2. **Or**, if you own multiple parcels in Washington state that total more than 80 forested acres, a single parcel of 20 acres or less may be eligible for the easement program.

### **What areas of my land can I enroll in the Forestry Riparian Easement Program?**

The following areas require the protection of forested buffers and therefore will qualify for the easement program: streams, rivers, ponds, lakes, wetlands, seeps, springs, and unstable slopes adjacent to riparian areas.

### **Am I eligible for the program if I’m not planning to harvest timber?**

No. Compensation is only available for qualifying timber that is part of a commercially reasonable harvest unit and covered by a current Forest Practices Application. A harvest unit is considered “commercially reasonable” if its total harvest value equals or exceeds \$1000 **and** the value of the harvestable timber equals or exceeds the value of the qualifying timber. **However**, if you are denied a Forest Practices Application because the majority of your harvest unit is encumbered by buffers, you may still be eligible for the easement program.

### **If my Forest Practices Application is disapproved because of site-specific conditions on my property, will I still be eligible for the program?**

If your Application is disapproved because of the way the new “Forests and Fish” rules affect your property, you may still be eligible for the easement program. The most common situation where an Application may be disapproved is where a planned harvest unit has so many streams, wetlands, and other sensitive aquatic sites that the required buffers prevent any timber from being harvested.

### **What happens if the property is sold or inherited?**

If the land associated with the easement is transferred in any manner, the terms of the easement agreement carry forward to the new owner. The easement deed becomes an “encumbrance” on the title of the property, similar to a road or power line easement.



**Unless a landowner is pursuing an Alternate Plan, no trees can be harvested within 50 ft. of any fish-bearing stream or river. All trees within this “core zone” qualify for the Forestry Riparian Easement Program.**

**Timber surrounding other sensitive sites such as lakes, ponds, seeps, springs, unstable slopes or forested wetlands may also qualify for the easement program.**

**A landowner must still pay all usual property taxes on the easement premises.**

### **How do landowners know which trees must be left unharvested, and therefore qualify for compensation?**

Following passage of the Salmon Recovery Act of 1999, the state now requires wider forested buffers on streams in both eastern and western Washington. Required buffer widths vary depending on the site class of the land, the width of the stream and whether the stream is fish-bearing. For fish-bearing streams in eastern Washington, buffer widths range from 50 to 130 feet. For fish-bearing streams in western Washington, they range from 90 to 200 feet. Buffers are divided into core, inner and outer zones (see illustration on page 1). **No trees can be harvested within the core zone unless a landowner is pursuing an Alternate Plan.** However, some harvesting is allowed in the inner and outer zones. A private consulting forester can assist landowners with determining which trees must be left during harvest operations. Qualifying trees are those trees which must be left, according to the state Forest Practices Rules, within the core, inner and outer zones of a riparian buffer. Non-fish bearing streams also have harvesting restrictions and therefore will have timber that may qualify for the easement program. Please consult the Forest Practices Rules, your local forest practices forester or your local small forest landowner office forester to determine buffer widths on non-fish bearing streams

### **Can I be compensated for timber that is not adjacent to a stream or river?**

In some cases, yes. This provision pertains to timber located near ponds, lakes, seasonal springs, wetlands, unstable slopes or other sensitive sites. To qualify, however, this timber must still be part of or adjacent to a commercially reasonable harvest unit.

### **Will the landowner still be responsible for paying taxes on and have other legal or fiscal obligations to the easement?**

Yes. Landowners must still pay property taxes which apply to the easement premises. Landowners also remain responsible for obtaining all legally required permits for activities conducted on or near the easement premises (i.e. hunting, forest practices and irrigation permits).

Landowners will continue to be responsible for paying:

1. State excise tax on harvested timber.
2. Federal income tax on any compensation the landowner receives for timber covered by the easement.
3. Annual property taxes.

### **Can I write an Alternate Plan for my property, then enroll the trees remaining in the riparian zone in the Forestry Riparian Easement Program?**

Yes. A landowner has the option to write an Alternate Plan for managing timber in a riparian area using prescriptions that differ from the state Forest Practices Rules. Timber remaining in the riparian area following harvest may then be eligible for compensation under the Forestry Riparian Easement Program. For more information on the alternate planning process, please contact your local Small Forest Landowner Forester.

## Forestry Riparian Easement Program



To qualify as a Small Forest Landowner, no more than 2 million board feet of timber can be harvested per year from land owned in Washington.

To be eligible, the property must be owned free and clear of any mortgages or liens by the landowner.

### Is there a limit to the amount of timber I can harvest to be considered a “small” forest landowner and therefore qualify for the easement program?

Yes. Landowners who harvest an average of less than two million board feet of timber per year over the past three years qualify as a small forest landowner and are eligible for the Forestry Riparian Easement Program. However, landowners *may* still qualify if they exceeded the two million board feet limit to pay for compelling and unexpected obligations such as court ordered judgments or extraordinary medical expenses.

### Am I still eligible for the easement program if I have a mortgage or liens on my property?

Perhaps. In order to reduce the state’s liability, the landowner is expected to own their property outright, and clear up any liens or other legal encumbrances on the title prior to enrolling in the easement program. However, in the case of a mortgage, if a landowner can obtain a “**subordination agreement**” from the title holder (e.g. mortgage company), the landowner may be eligible for the easement program. A subordination agreement makes the interests of the mortgage holder “secondary” to the interests of the state. In the event of foreclosure, the title holder must honor the easement when reselling the property. Without this assurance, DNR cannot grant an easement.

### What paperwork or documents am I required to submit when enrolling in the easement program?

Application for the program first begins with the **Forest Practices Application** which must be submitted to DNR before timber harvest can begin. As part of the Forest Practices Application, the landowner may also be required to submit a **Road Maintenance and Abandonment Plan (RMAP) checklist**. A **title report** will also be required, which is provided by the title company indicating whether or not the property has any liens held against it. Either the landowner can provide the title report or DNR will purchase it from the title company. If the landowner has a mortgage on the property, a **subordination agreement** must be obtained from the title holder. Please contact your local DNR small forest landowner forester to determine what paperwork you may be responsible for submitting.

### Am I required to allow public access on my property?

No right of public access is conveyed by the easement. However, DNR foresters may occasionally visit the site to insure that the terms of the easement are being met. If a site visit is to be made, DNR will contact the landowner prior to making the visit.

### Once the harvest has been completed, how long will it take to receive an offer letter from DNR?

Once harvesting has been completed, the landowner will submit a Post-Harvest Questionnaire to the Small Forest Landowner Office indicating that they have finished with their harvest. DNR will then pay for the cruise of the remaining timber. Once the cruise data has been submitted to the Small Forest Landowner Office, an offer letter will be sent to the landowner within 60 days. Once a landowner receives their offer letter, they will have 30 days to accept it.



## Forestry Riparian Easement Program



### **Can an easement be granted when the land is leased or owned by one party and the trees owned by or leased to a different party?**

When an Forestry Riparian Easement is established on forestland, it becomes a legal encumbrance on the title and carries forward with the title when the property is sold or otherwise passed on to another landowner. Therefore the landowner is ultimately responsible for establishing the easement on the property. However, if one individual owns the land and is leasing or has sold the timber rights to another individual, it is the responsibility of both the landowner and the timber owner/lesser to determine how the compensation for the qualifying timber will be equitably distributed.

### **When land is entered into the easement program, who is responsible for surveying the property lines and who must pay for the survey?**

A legal survey of the easement premises is not required for the purposes of the easement program. However, identification of all property lines is the landowner's responsibility. If the easement premises border a property line, it is recommended that the landowner hire a licensed surveyor to identify the property lines prior to conducting a timber harvest and enrolling in the easement program. A DNR forester will, however, traverse the boundaries of an easement in order to determine the number of acres within the easement.

### **How will the easement premises be identified and marked for the 50-year term of the easement?**

The forested acres within a Forestry Riparian Easement are identified by traversing the boundary of the easement. The landowner, when filing a Forest Practices Application, must include a map of the harvest unit with the riparian management zone marked off. Additionally, when laying out the harvest unit on the ground, the landowner, or a consulting forester hired by the landowner, must flag off the boundaries of the harvest unit as well as the various zones within the riparian management zone. Once the timber harvest has been completed, a DNR Small Forest Landowner Forester will traverse the boundary of the easement premises in order to establish an accurate number of acres contained within the easement.



## The Easement Process

If you still have questions about the Forestry Riparian Easement Program (FREP), please contact your nearest DNR office or visit the website at: [www.dnr.wa.gov/sflo](http://www.dnr.wa.gov/sflo)

1. **Landowners can apply to the Forestry Riparian Easement Program by submitting the one-page application located at the end of this publication to the Small Forest Landowner Office.** This application should be submitted before harvesting timber. Initially applying to the easement program does not obligate you to participate.
2. A DNR Small Forest Landowner forester will contact you shortly after you submit your FREP application. The forester will confirm that you and your land are eligible for the program. Once you have completed your harvest, a small forest landowner office forester will contact you and set up a time to make a site visit.
3. At your site visit, the small forest landowner forester will confirm that the site meets program criteria and provide initial guidance in determining the geographical boundaries of the proposed easement area.
4. Following harvest, the landowner completes a short Harvest Status Questionnaire and submits it to the small forest landowner forester who has been assisting them.
5. The Small Forest Landowner Office will arrange and pay for a cruise of the qualifying timber, value the timber, calculate compensation and make an offer to the landowner.
6. If the landowner disagrees with the compensation offer, he or she has 30 days after the date of the compensation decision to submit a written request for review. The Office will issue a written response within 30 days.
7. If agreement is reached on compensation, the easement papers will be drawn and the Small Forest Landowner Office and the landowner will sign the easement agreement. Payment will be made promptly upon execution of the easement deed.



## For more information:

Please contact the Small Forest Landowner forester at the nearest DNR region office.

### Olympia Headquarters

P.O. Box 47012  
Olympia, WA 98504-7012  
Tel: (360) 902-1389  
Fax: (360) 902-1428  
TTY: (360) 902-1125  
sflo@wadnr.gov  
www.wa.gov/dnr/sflo

### Northwest Region

**Boyd Norton**  
919 N Township St.  
Sedro-Wooley, WA 98284-9333  
Tel: (360) 856-3500  
TTY: (360) 856-1371  
boyd.norton@wadnr.gov

### Northeast Region

**Steve DeCook**  
225 S. Silke Rd.  
P.O. Box 190  
Colville, WA 99114  
Tel: (509) 684-7474  
TTY: (509) 684-7474  
steve.decook@wadnr.gov

### Olympic Region

**Ritch Wood**  
411 Tillicum Lane  
Forks, WA 98331-9797  
Tel: (360) 374-6131  
TTY: (360) 374-2819  
richard.wood@wadnr.gov

### Southeast Region

**Joe Weeks**  
713 E Bowers Rd.  
Ellensburg, WA 98926-9341  
Tel: (509) 925-8510  
TTY: (509) 925-8527  
joe.weeks@wadnr.gov

### Pacific Cascade Region

**Rick Kuykendall**  
601 Bond Rd.  
P.O. Box 280  
Castle Rock, WA 98611-0280  
Tel: (360) 577-2025  
TTY: (360) 577-2025  
rick.kuykendall@wadnr.gov

### South Puget Sound Region

**Boyd Norton: King**  
**Rick Kuykendall: Pierce**  
**Ritch Wood: Kitsap, Mason**  
950 Farman St. N.  
Enumclaw, WA 98022-0068  
Tel: (360) 825-1631  
TTY: (360) 825-6381

# Forestry Riparian Easement Program Application

Landowner: Please complete this form and return to WA State Dept. of Natural Resources, Small Forest Landowner Office at the address listed at the bottom of this page.

1. Contact Information:

Name of landowner(s) \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Work phone (\_\_\_\_)\_\_\_\_\_ Home phone (\_\_\_\_)\_\_\_\_\_

E-mail address: \_\_\_\_\_

2. County Tax Parcel Number(s) of the property where the proposed easement premises are located:

\_\_\_\_\_  
\_\_\_\_\_

3. List all Forest Practice Application (FPA) number(s) associated with this easement:

FPA # \_\_\_\_\_ Approved Disapproved

FPA # \_\_\_\_\_ Approved Disapproved

FPA # \_\_\_\_\_ Approved Disapproved

4. Date harvest began, if applicable: \_\_\_\_\_ (This date is used to determine easement value.  
There are future opportunities to report this date if harvest has not begun).

5. Statement of small forest landowner:

*I understand that my participation in Washington State's Forestry Riparian Easement Program is conditioned upon the accuracy of my representations contained in this document and upon my compliance with all rules governing Washington State forest practices and forestry riparian easements. I certify by my signature that I am a "small forest landowner" as defined by RCW 76.13.120(2) (c) and the information I have provided is true to the best of my knowledge.*

Landowner Signature \_\_\_\_\_ Date \_\_\_\_\_

Print landowner name \_\_\_\_\_

Please mail this application to:  
WA State Dept. of Natural Resources  
Small Forest Landowner Office  
PO Box 47012  
Olympia, WA 98504-7012

1111 WASHINGTON ST SE  
PO BOX 47012  
OLYMPIA, WA 98504-7012

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WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**  
Doug Sutherland - Commissioner of Public Lands

